IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 881 OF 1997

Siro Plast Ltd. ..Petitioner.

Mr. Sandip Chavan i/by Little & Co. for the Petitioner.

CORAM : A.M. KHANWILKAR, J.
DATED :14/7/2005

P.C.:

1. Heard counsel for the petitioner. None appears for the respondent though served and has entered appearance through advocate. No reply has been filed on behalf of the respondent company. According to the petitioner, the respondent company is liable to pay to the petitioner three bills of exchange dated 10.7.1995 aggregating Rs.25,60,000/-, Rs.25,60,000/- and Rs.2,40,000/- respectively. Part payment has been received from the respondent company. The respondent company has acknowledged the liability to pay sum of Rs.23,11,300/- (Principal plus interest @ 36% per annum) as on 31.3.1996 in its letter dated 12.8.1996 at Page 33 of the petition. As the respondent company failed to pay the amount in spite of acknowledging its

liability, Petitioner, eventually gave statutory notice on 3.4.1996. The petitioner claim balance outstanding amount of Rs.16,98,387/- (Principal and Interest as on 31.3.1997 aggregating Rs.35,387/-). No reply was given to the statutory notice though duly served. Eventually, the petitioner has filed the present petition on 4.10.1997 under Section 433 and 434 of the Companies Act for winding up of the respondent company. In spite of service of the present petition and respondent company has tendered appearance through advocate, no reply has been filed on record. In that sense, the averments made in the company petition have remained uncontroverted. In other words, the legal presumption against the respondent company that the company is unable to pay its debt has remained uncontroverted and unrebutted. If it is so, this court has no option but to allow the petition in terms of prayer clause (a) and (b). Official Liquidator to take steps in accordance with law. Ordered accordingly. Notice be published in Free Press Journal, Navshakti and Government Gazette. The petitioner to deposit a sum of Rs.2000/- with the Prothonotoary and Sr. Master of this court within a period of four weeks from today.

(A.M. KHANWILKAR,J.)